

# Exhibit 5

David W. Norman, P.E.

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE: METHYL TERTIARY BUTYL  
ETHER ("MTBE") MDL 1358  
PRODUCTS LIABILITY LITIGATION (SAS)

This Document Relates to:

CITY OF FRESNO v. CHEVRON U.S.A.  
INC., et al.  
Case No. 04 Civ. 04973 (SAS)

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THURSDAY, JUNE 14, 2012  
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Videotaped Deposition of DAVID W. NORMAN,  
P.E., VOLUME V, held at the Law Offices of Miller,  
Axline & Sawyer, 1050 Fulton Avenue, Suite 100,  
Sacramento, California, beginning at 9:11 a.m.,  
before Sandra Bunch VanderPol, FAPR, RMR, CRR, CSR #3032

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1 A. Maybe I can make this a little quicker. Oh,  
2 you don't --

3 Q. Oh, Tab I is my tab. But it is the rebuttal  
4 report dated March 5th of 2012.

5 A. Yes.

6 Q. And let's see if I have it marked here. It  
7 is opinion 4, quote, "There is no evidence that any  
8 COF supply well has been or will be impacted as a  
9 result of petroleum hydrocarbons released at the  
10 site." That's a heading.

11 A. Right.

12 Q. Is that a heading that you pulled out of Sam  
13 Williams's report?

14 A. That's correct.

15 Q. Are you aware of any evidence that any City  
16 of Fresno supply well has been impacted as a result  
17 of petroleum hydrocarbons released at any specific  
18 site?

19 MS. O'REILLY: Vague. Ambiguous.  
20 Overbroad. Asked and answered multiple times.  
21 Argumentative in light of prior answers.

22 THE WITNESS: It's a three-part answer.

23 MR. ANDERSON: Okay.

24 THE WITNESS: One, we didn't -- we didn't do  
25 that analysis, so I wouldn't have firsthand

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1 knowledge.

2 Secondly, I didn't review other experts'  
3 work on that, so I wouldn't know -- or spoke to them.  
4 So I don't know if that opinion is held by somebody  
5 else. So I'm not aware of that.

6 And, third, I guess the only other thing I  
7 could say is the fact that there is detections in  
8 some wells indicates that it's there from some  
9 underground tank. But beyond that, I couldn't tell  
10 you which one, no. And I'm aware of any anybody's  
11 opinion such that...

12 BY MR. ANDERSON:

13 Q. I have heard one or more of the plaintiff's  
14 experts say words to the effect of "contamination at  
15 one or more of the wells came from one or more of  
16 these 30 or so stations, but I can't tell you which  
17 station and match any particular station to any  
18 particular well." I'm paraphrasing, but that's  
19 been -- that's been stated.

20 A. Okay.

21 MS. O'REILLY: And I'm going to object to  
22 that paraphrase.

23 Go ahead.

24 BY MR. ANDERSON:

25 Q. From your perspective, is that a true

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1 statement?

2 MS. O'REILLY: Objection. Vague.

3 Ambiguous. Overbroad. And -- and are you asking him  
4 if your paraphrase is a true statement?

5 MR. ANDERSON: No. Let me ask it straight  
6 out, then.

7 Q. Mr. Norman, do you have an opinion that MTBE  
8 released at any particular site that you have looked  
9 at made its way into any particular City of Fresno or  
10 Clovis well?

11 MS. O'REILLY: Asked and answered multiple  
12 times. Vague. Ambiguous. Overbroad. Exceeds scope  
13 of designation.

14 Answer again.

15 THE WITNESS: Yes, as I said, we didn't  
16 provide that analysis. We didn't conduct that  
17 analysis. So I have no opinion concerning the  
18 presence or lack of presence of MTBE in any  
19 particular City of Fresno well from any particular  
20 site we looked at.

21 BY MR. ANDERSON:

22 Q. Do you have an opinion that any City of  
23 Fresno or City of Clovis supply well will in the  
24 future be impacted by MTBE released at any particular  
25 site in the City of Fresno?

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1 MS. O'REILLY: Same objection.

2 THE WITNESS: Again, I don't have an expert  
3 opinion. But from a general point of view, given  
4 that MTBE has been detected in some of the wells --  
5 and there are at least 30 opportunities or 25,  
6 whatever we recommend additional work for -- I would  
7 say that that potential certainly exists.

8 BY MR. ANDERSON:

9 Q. Okay. And you have to agree that the  
10 potential also exists that MTBE in one or more of the  
11 Fresno drinking water wells came from a station other  
12 than the 30 or so that you looked at, right?

13 MS. O'REILLY: Calls for speculation.  
14 Assumes facts. Lacks foundation. Vague and  
15 ambiguous. Overbroad.

16 THE WITNESS: Without looking at that  
17 information from each site, as I said before, I  
18 couldn't have that opinion, but it is certainly a  
19 possibility.

20 BY MR. ANDERSON:

21 Q. Let's turn to Family Express Food & Liquor  
22 at 4205 East Butler. And I believe it is your  
23 Exhibit 28.

24 I have a reference -- and I think it may  
25 have come from your report -- that indicates words to

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ACKNOWLEDGMENT OF DEPONENT

I, \_\_\_\_\_, do  
hereby certify that I have read the  
foregoing pages, and that the same  
is a correct transcription of the answers  
given by me to the questions therein  
propounded, except for the corrections or  
changes in form or substance, if any,  
noted in the attached Errata Sheet.

\_\_\_\_\_  
DAVID W. NORMAN, P.E. DATE

Subscribed and sworn  
to before me this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

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1 CERTIFICATE OF REPORTER

2 I, SANDRA BUNCH VANDER POL, a Certified  
3 Shorthand Reporter, hereby certify that the witness  
4 in the foregoing deposition was by me duly sworn to  
5 tell the truth, the whole truth and nothing but the  
6 truth in the within-entitled cause;

7 That said deposition was taken down in  
8 shorthand by me, a disinterested person, at the time  
9 and place therein stated, and that the testimony of  
10 the said witness was thereafter reduced to  
11 typewriting, by computer, under my direction and  
12 supervision;

13 That before completion of the deposition,  
14 review of the transcript was requested. If  
15 requested, any changes made by the deponent (and  
16 provided to the reporter) during the period allowed  
17 are appended hereto.

18 I further certify that I am not of counsel or  
19 attorney for either or any of the parties to the said  
20 deposition, nor in any way interested in the event of  
21 this cause, and that I am not related to any of the  
22 parties thereto.

23 DATED:

24

\_\_\_\_\_  
SANDRA BUNCH VANDER POL, CSR #3032

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